

COMMISSIONERS APPROVAL

ROKOSCH *JH*

GRANDSTAFF *CG*

THOMPSON *AT*

CHILCOTT *g*

DRISCOLL *LD*

PLETTENBERG (Clerk & Recorder)

Date.....October 18, 2007

Members Present.....Commissioner Jim Rokosch,  
Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, Commissioner Greg  
Chilcott and Commissioner Kathleen Driscoll

Minutes: Beth Perkins

The Board met for a Request for Commission Action for Elk Run Minor Subdivision.  
Planner Tristan Riddell Representatives Jake and Jean Kammerer and Developer Gerald  
Germansen were present.

Commissioner Rokosch opened the public hearing. He requested any conflicts of  
interest, hearing none. He then requested the Planning Staff Report. Tristan presented the  
Planning Staff Report as follows:

**ELK RUN (GERMANSEN)  
FOUR-LOT FIRST MINOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Randy Fifrick

**REVIEWED/  
APPROVED BY:** Renee Van Hoven

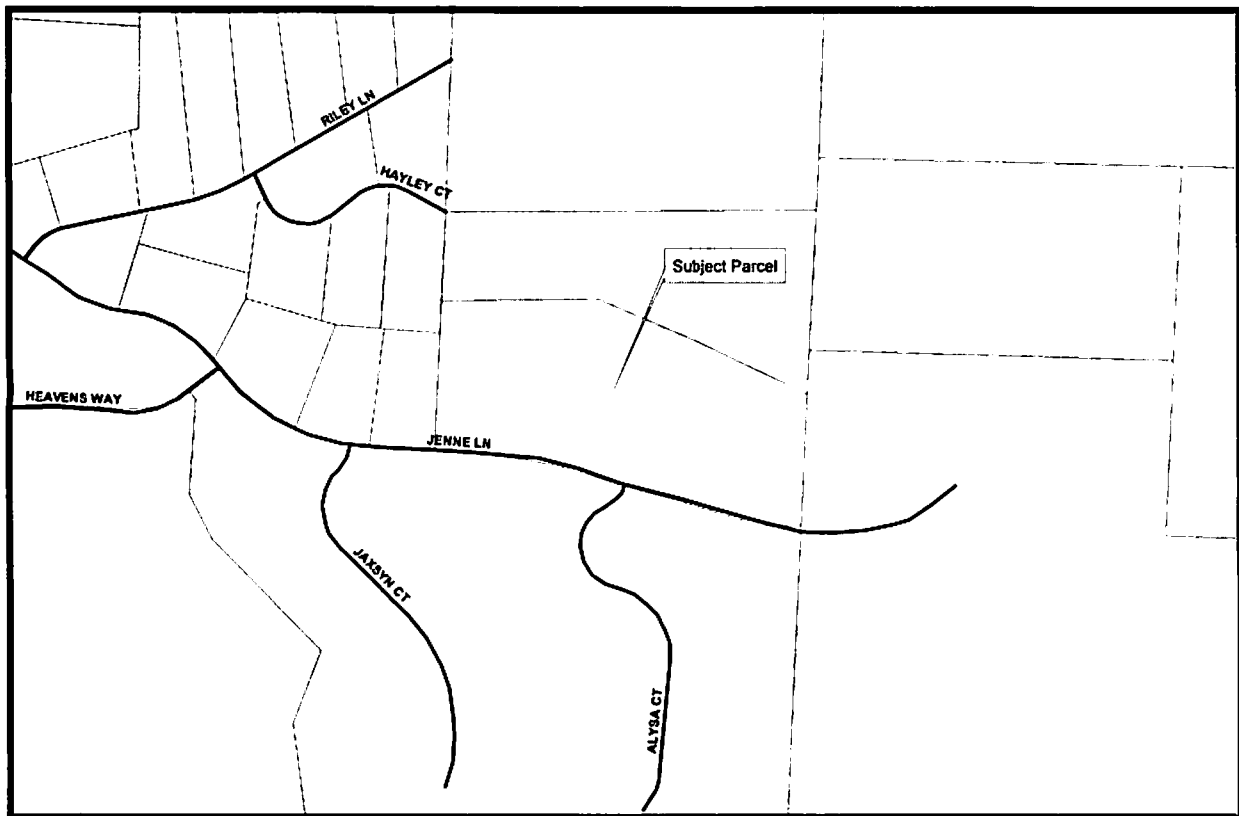
**PUBLIC HEARINGS/  
MEETINGS:** BCC Public Meeting: 10 a.m. October 18, 2007  
Deadline for BCC action (35-working days): October 30, 2007

**SUBDIVIDER/OWNER:** Gerald Germansen  
P.O. Box 747

Humboldt, AZ 86329-0747

**REPRESENTATIVE:** Kammerer Environmental Consulting, LLC  
Jake & Jean Kammerer  
P.O. Box 134  
Stevensville, MT 59870-0134

**LOCATION OF REQUEST:** The property is located east of Florence off  
Eight Mile Creek Road and Jenne Lane. (See  
*Map 1*)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Tract 4B, CS# 545249-F located in the SE ¼ of  
Section 9, T10N, R19W, P.M.M., Ravalli County,  
Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined sufficient  
on September 9, 2007. Agencies were notified of the  
subdivision and comments received by the Planning  
Department not included in the application packet are

Exhibits A-1 through A-3 of the staff report. This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.

**LEGAL NOTIFICATION:** Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked September 28, 2007. No comments from the public have been received to date.

**DEVELOPMENT  
PATTERN:**

Subject property	Undeveloped
North	Residential
South	Undeveloped, proposed
subdivision	
East	Undeveloped
West	Undeveloped

**APPLICABLE SUBDIVISION REGULATIONS:** As amended May 24, 2007

**INTRODUCTION**

The Elk Run minor subdivision is a four-lot subdivision on 17.22 acres located east of Florence. There are no variances in conjunction with this subdivision proposal.

Section 5-4-5(e) of the RCSR requires the applicant of Elk Run to improve the portion of Jenne Lane, a non-County-maintained road, leading to the subdivision to meet County standards. The applicant submitted the road plans that were drafted by the developers of Gunshy 2, which is just south of Elk Run. Staff understands that the developer of Elk Run has been working with the developers of Gunshy 2 to improve Jenne Lane. The plans have received preliminary approval from the Road Department. If the Elk Run subdivision is approved, the applicants will be required to ensure that the portion of Jenne Lane providing access to Elk Run is actually constructed, as proposed by the developers of Gunshy Ridge 2. If Gunshy Ridge 2 is not approved, the developer of Elk Run would be solely responsible for improving Jenne Lane to meet County standards prior final plat approval.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS  
OCTOBER 18, 2007

ELK RUN (GERMANSEN)  
FOUR-LOT MINOR SUBDIVISION

**RECOMMENDED MOTION**

That the Elk Run Minor Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there is an irrigation easement, as shown on the final plat. At the time of approval of this subdivision, it was not known whether or not there any downstream users with water rights. Any downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easement on the property. Any downstream users must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited. *(Prerequisite to Approval #5 and Effects on Agricultural Water User Facilities)*

***Notification of Common Access Maintenance Agreement.*** The common accesses are not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Common Access Maintenance Agreement for the accesses was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services and Public Health and Safety)*

***Notification of Road Maintenance Agreement.*** Jenne Lane is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible

for maintenance and under what conditions. (*Effects on Local Services and Public Health and Safety*)

**Notification of No-Build/Alteration Zone.** Within this subdivision there is a no-build/alteration, as shown on the plat, to restrict building in areas with steep slopes and to protect the ditch/stream feature traversing the property in an east to west direction. No new structure, with the exception of fences, necessary weed control, development of native vegetation, and the installation or maintenance of irrigation infrastructure, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. The no-build/alteration zone takes effect upon preliminary approval of the subdivision. (*Effects on Natural Environment and, Public Health & Safety*)

**Notification of "Very Limited" Soils.** Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. (*Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

**Wood Stoves.** The County recommends that home owners install EPA-certified wood stoves to reduce air pollution. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Credit for the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. (*Effects on Natural Environment*)

**Riparian and Drainage Area Covenants.** Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. The goal of the no-build/alteration zone is to help preserve the water quality and functionality of these drainage areas, protect and enhance potential riparian areas, and protect property from eroding banks and possible flooding. (*Effects on Natural Environment and Wildlife and Wildlife Habitat*)

The no-build/alteration zone encompasses from 50 feet south of the center of the ditch/stream to the northern boundary of the subdivision. The following covenants apply to the no-build/alteration zones:

- a. No new building or alteration is allowed in the zone.

- b. Only non-motorized access is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the no-build/alteration zone. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In summary, allow the natural drainage areas to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- g. These riparian and drainage area covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

***Living with Wildlife.*** Homeowners must accept the responsibility of living with wildlife, must accept responsibility for protecting their vegetation from damage, and must confine their pets and properly store garbage, pet food, and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife and Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov). (*Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property, and the wildlife that Montanans value.

- (a) Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- (b) **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe or rotting vegetable material can attract bears and skunks. To help keep wildlife

such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.

- (c) **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. It is best not to set garbage cans out until the morning of garbage pickup.
- (d) **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners should be aware that deer might occasionally attract mountain lions to the area.
- (e) **Birdseed** can attract bears. If used, bird feeders should: (1) be suspended a minimum of 20 feet above ground level, (2) be at least 4 feet from any support poles or points, and (3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- (f) **Pets** should be confined to the house, in a fenced yard, or in an outdoor kennel area, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).
- (g) **Pet food and livestock feed** should be stored indoors or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, raccoons, etc. **When feeding pets or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- (h) **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- (i) Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence.

- (j) **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- (k) **Apiaries (bee hives)** could attract bears in this area. (If used, consult Montana Fish, Wildlife, and Parks or the U.S. Fish and Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- (l) **Species of Concern on or around Elk Run Subdivision** – Lots located in this subdivision may be in an area frequented by, or has the potential to support, the Townsend's Big-eared Bat, which is considered a sensitive species to both the US Forest Service and the Bureau of Land Management. Evidence suggests that these bats are not substantively affected by development so much as the loss of breeding habitat. In order to mitigate the impact on their habitat, lot owners are prohibited from removing any of the existing mature trees on the lots unless damaged by natural causes, and/or if they present a threat to human safety based upon conditions that are not caused by the owner. A copy of "Living with Bats" published by Montana Fish, Wildlife, and Parks is attached to this document. Each lot owner is encouraged to promote the addition of bat houses of a design endorsed by Bat Conservation International, Inc. to attract and provide a healthy haven for any Townsend's Big-eared Bats that may reside in the immediate area.

***Lighting for New Construction.*** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (*Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

***Radon Exposure.*** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this



location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Effects on Agriculture and Natural Environment)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Florence Rural Fire District has adopted Fire Protection Standards which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** . The Florence Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Florence Rural Fire District stating that the subdividers have provided the

required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*

6. The following statement shall be shown on the final plat: "The Florence Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information". *(Effects on Local Services and Public Health & Safety)*
7. The subdivider shall submit a letter or receipt from the Florence-Carlton School District stating that they have received an (amount) per-lot contribution prior to final plat approval. *(Effects on Local Services)*
8. The subdivider shall submit an (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office and provide the receipt prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
9. The subdivider shall pave all common approaches a minimum of 20 feet wide from the surface of Jenne Lane back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Ravalli County Road and Bridge Department, if specified in the approach permit, prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
10. A no-build/alteration zone from 50 feet south of the center of the ditch/stream to the northern boundary of the subdivision shall take effect upon preliminary approval of the subdivision and shall be shown on the final plat. *(Effects on the Natural Environment and Public Health and Safety)*
11. The applicant shall provide for a 10-foot wide irrigation easement centered on the ditch that traverses through the northern portion of the lots within the subdivision. *(Prerequisite to Approval #5 and Effects on Agricultural Water User Facilities)*

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision meets the following requirements:

**1. Provides easements for the location and installation of any planned utilities.**

**Findings of Fact**

1. Existing utility easements are located along Jenne Lane.
2. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. Utility companies have been notified of the proposed subdivision and no comments have been received to date.
3. Section 3-4-4(a)(xviii) requires utility availability certificates prior to final plat approval.
4. Section 3-4-4(a)(ii) of the RCSR requires that the existing and proposed utility easements are shown on the final plat.

**Conclusion of Law**

The proposed subdivision application provides for utility easements.

**2. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

**Findings of Fact**

1. The subject property is accessed by Eight Mile Creek Road and Jenne Lane.
2. Eight Mile Creek Road is listed as a County-maintained road in Exhibit A of the RCSR.
3. Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision to meet County standards prior to final plat approval.
4. In COS# 545249-F (application), Tract 4B shows Jenne Lane traversing along the southern border of the property.
5. COS# 533387-R (application) shows an existing 60-foot wide private access easement, Jenne Lane, along the southern boundary of Tract 4. This COS also shows an existing 60-foot wide private easement from blank? to Eight Mile Creek Road.
6. Jenne Lane is subject to an existing Road Maintenance Agreement, Doc # 563430 (Elk Run preliminary plat application). The applicant has submitted preliminary documents showing that the future lot owners of Elk Run will

be party to that existing agreement. Section 3-4-4(a)(xix) requires a final road maintenance agreement signed and notarized prior to final plat approval.

7. Section 5-4-5(e) requires that the applicant improve the portion of Jenne Lane accessing the subdivision to meet County standards prior to final plat approval. The applicant is working with the developers of Gunshy 2 to make the required improvements. The Road Department has granted preliminary approval to the road plans for Jenne Lane (Exhibit # or application).

#### Conclusions of Law

With the final plat requirements, legal and physical access will be provided on Eight Mile Creek Road and Jenne Lane.

3. **Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

#### Findings of Fact

1. Section 5-4-5(e) requires that the applicant improve the portion of Jenne Lane accessing the subdivision to meet County standards prior to final plat approval.
2. Condition 5 requires that the applicant installs a water supply to mitigate impacts on the provision of fire services. Alternatively, the applicant can make a cash donation to the Florence Rural Fire District.
3. Condition 10 requires the applicant to pave the common accesses to mitigate impacts on local services.
4. Section 3-4-4(a)(xxvi) requires that the applicant submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval.

#### Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all required improvements are installed.

4. **Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

#### Finding of Fact

The application states that the property does not have water rights.

#### Conclusion of Law

Since there are no water rights, this requirement has been met.

- 5. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

1. The application states that an existing irrigation ditch, which traverses east to west through the northern portion of the lots, is the remnant of an abandoned irrigation ditch.
2. The USGS Topographic Quad Map (Davis Point) shows a perennial stream traversing the property. In a letter received October 2, 2007 (Exhibit A-1), FWP states that this is a side channel of Eight Mile Creek that may have seasonal flow.
3. Documentation ensuring that there are no downstream users that have water rights off the ditch that traverses through the subject property has not been provided. To ensure that an irrigation easement is provided for any possible users of the ditch through this property, as required by 76-3-504(1)(k), the applicant shall provide for a 10-foot wide irrigation easement on the final plat (Condition 13).
4. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited by 76-3-504(1)(k) MCA, without the written permission of the ditch owner. To meet this requirement, the applicant shall place a notification in the Notifications Document that permission from downstream water right holders is required for any alterations within the irrigation easement. (Condition 1)

Conclusion of Law

With the requirements of final plat approval, this requirement will be met.

- 6. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Finding of Fact

Chapter 6 of the RCSR allows for either a land donation/dedication or cash-in-lieu of parkland donation/dedication for minor subdivisions beginning October 1, 2007, as amended in MCA 76-3-621. This proposal was deemed sufficient prior to that date. There is no parkland requirement associated with this proposal.

Conclusion of Law

This requirement is not applicable.

**COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

**A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

**Finding of Fact:**

The Ravalli County Planning Department has reviewed this proposal in compliance with the procedures provided in Chapter 3 of the RCSR. With the conditions and requirements of final plat approval for the subdivision, the application will meet the design standards in Chapter 5. No variances are requested.

**Conclusion of Law:**

With the conditions and requirements of final plat approval for the subdivision, the preliminary plat application meets all applicable standards required in the RCSR.

**B. Applicable zoning regulations.**

**Findings of Fact**

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038), which has been determined to be a minimum lot size restriction. The density of this subdivision is about one dwelling unit per 4.31 acres, with a minimum lot size of 3.60 acres.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

**Conclusion of Law**

This proposal complies with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

**Finding of Fact**

There are no existing covenants on the property.

**Conclusion of Law**

There are no covenants that apply to this property.

**D. Other applicable regulations.**

**Findings of Fact**

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli

- County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the updated pre-application conference held on April 5, 2006.

**Conclusion of Law**

The application appears to meet all of the applicable regulations.

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

**CRITERION 1: EFFECTS ON AGRICULTURE**

**Findings of Fact:**

1. The proposed minor subdivision on 17.22 acres will result in four lots that range in size from 3.60 acres to 6.00 acres. The property is located approximately 5.0 miles east of the community of Florence off Eight Mile Creek Road and Jenne Lane in an area of low-density residential and agricultural uses.

*To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*

2. According to the application, the property is not currently being used for agricultural purposes.
3. None of the property has soils listed as Prime Farmland or Farmland of Statewide Importance. A small portion of the property closest to Jenne Lane is listed as Farmland of Local Importance by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). In an email dated August 21, 2007 (Exhibit A-3), Jay Skovlin, local NRCS soil scientist, stated that the Farmland of Local Importance classification was not intended to be used to determine important agricultural land for subdivision review. It is the lowest tier of farmland soils and the criteria have a low threshold so this classification does not show the most productive soils in the Valley. The classification will be used as a preliminary screening tool for the Farm and Ranch Land Protection Program.
4. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is located in medium to heavy infestations on the property. The evaluation form has been approved by the Weed Board and Section 3-4-5(b)(vi) requires that a final approved plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring

a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.

*To mitigate impacts on agriculture, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

**Conclusions of Law:**

1. The creation of these lots will diminish potential agricultural uses on this property, but will not take Prime Farmland or Farmland of Statewide Importance out of production.
2. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on surrounding agriculture will be reduced.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

**Findings of Fact**

1. According to the application, there are no water rights associated with this property.
2. The application states that an abandoned irrigation ditch traverses the northern portion of the lots within the subdivision from east to west.
3. The USGS Topographic Quad Map for this property (Davis Point) shows the "ditch" as a perennial stream.
4. In a letter received October 2, 2007, FWP states that this is channel of Eight Mile Creek that may or may not have seasonal flow.
5. It is unknown whether or not there are downstream water right holders.

*To ensure that downstream water rights holders, if any, have access to the irrigation ditch, a 10-foot wide irrigation easement shall be centered on the ditch/stream on the final plat and a notification of the irrigation easement shall be included in the Notifications Document filed with the final plat. (Conditions 1 and 13)*

**Conclusion of Law:**

With the mitigating conditions of approval, impacts on agricultural water user facilities will be reduced.

**CRITERION 3: EFFECTS ON LOCAL SERVICES**

**Findings of Fact:**

1. The subdivision is located within the Florence Rural Fire District.
2. The Florence Rural Fire District has adopted the Fire Protection Standards which address access, posting of addresses, and water supply requirements. Conditions of approval will meet the recommendations of the Florence Rural Fire District.

*The following conditions will mitigate impacts of the subdivision on the Fire District:*



- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
  - *Prior to final plat approval, the subdividers shall provide a letter from the Florence Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
  - *The following statement shall be shown on the final plat: "The Florence Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information". (Condition 6)*
3. *The draft report titled **Impact Fees to Fund Growth-Related Capital Improvements** by TischlerBise states that "dividing the Fall Enrollment of 911 students in SY05-06 by the estimated number of housing units in the [Florence-Carlton] school district (i.e. 2,157 housing units in 2006) yields an average of 0.42 public school students per housing unit." Using this data, it is estimated that approximately 2 school-aged children will be added to the Florence-Carlton School District with this subdivision.*
  4. *The subdivider is proposing to contribute a voluntary donation to the school district of \$250 per lot on first conveyance of each lot.*
  5. *The Florence-Carlton School District was notified of the subdivision proposal. In a letter dated October 2, 2007 (Exhibit A-2), the School District requested a \$10,418 per lot contribution. The amount is based on information commonly requested by the county commissioners when reviewing subdivisions, and information from an August 8, 2006 Impact Fee Study.*

*To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Florence Carlton School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 7) (Staff Note: Since the applicants and the School District did not agree on an amount, the applicants' proposal is not based on any facts, and the School District's proposal is based on the Impact Fee Study for capital improvements, which cannot be used to determine voluntary contributions per MCA 76-3-510, staff recommends that the BCC negotiate an amount with the*

*applicants and include the appropriate finding(s) supporting the amount in their decision.)*

6. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems.
7. The Ravalli County Sheriff's Office provides law enforcement services to this area. No comments have been received by the Sheriff's Office. The current level of service is unknown, but it is generally understood that the Sheriff's Office is operating at an inadequate level of service. This proposed subdivision is located 36 miles from the Sheriff dispatch. The applicant is not proposing any mitigation.

*To mitigate impacts on the law enforcement, the subdivider shall submit an (amount)per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 8)*

8. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department and/or Missoula Emergency Services. Both emergency service providers were contacted but no comments have been received by either entity.
9. Bitterroot Disposal provides service to this site.
10. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. Utility companies have been notified of the proposed subdivision.

*Section 3-4-4(a)(ii)(V) requires that the existing and proposed utility easements are shown on the final plat.*

11. There are 4 proposed single family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 24 additional vehicular trips per day, assuming 8 trips per day per single-family dwelling.
12. Eight Mile Creek Road, a County-maintained road, and Jenne Lane, a privately-maintained road, provide access to the subdivision.
13. There is an existing Road Maintenance Agreement for Jenne Lane. The applicant has included a Supplement to Road Maintenance Agreement for Jenne Lane which allows the proposed Elk Run subdivision to become party and subject to the Gunshy Ridge subdivision Road Maintenance Agreement.

*To mitigate impacts on the off-site roads leading to the subdivision, the following conditions and requirements shall be met:*

- *Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision to meet County standards prior to final plat approval.*
- *Section 5-4-5(e) requires that the portion of Jenne Lane leading to the subdivision be improved to meet County standards prior to final plat approval. A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ (if required), final road*

*plans and grading and storm water drainage plans, a road certification, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*

- *Section 3-4-4(a)(xix) requires that a Road Maintenance Agreement is in place so the future owners of Elk Run contribute to the maintenance of Jenne Lane.*
- *A notification of the road maintenance agreement for Jenne Lane shall be included in the notifications document filed with the final plat. (Condition 1*
- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*

14. The applicant is proposing two common accesses to serve the four lots. A preliminary Common Access Maintenance Agreement was submitted with the application.

*To mitigate impacts on local services, the following requirements and conditions shall be met:*

- *Section 3-4-4(a)(xix) requires that a final common access maintenance agreement is submitted with the final plat application.*
- *A notification of the common access agreement shall be included in the Notifications Document. (Condition 1)*
- *The subdivider shall pave all common approaches a minimum of 20 feet wide from the surface of Jenne Lane back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Ravalli County Road and Bridge Department, if specified in the approach permit, prior to final plat approval. (Condition 9)*

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### **Findings of Fact:**

1. In an email dated January 10, 2007 (Exhibit A-11), the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, wood-burning stoves. There are no gravel roads accessing the subdivision.

*To mitigate impacts on the natural environment, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*

2. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (Exhibit A-12).

*Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval*

3. The application states there is a drainage/abandoned irrigation ditch that traverses the property from east to west.
4. The USGS Topographic Quad Map (Davis Point) shows a perennial stream traversing the property.
5. In a letter received October 2, 2007 (Exhibit A-1), FWP stated that there is a channel of Eight Mile Creek traversing the property that may or may not have seasonal water flow. They recommend a 50-foot setback from each side the feature.

*To mitigate impacts on the natural environment, the subdivider shall provide for a no-build/alteration zone from 50 feet south of the center of the ditch/stream to the northern boundary of the subdivision, which also encompasses steep slopes. Riparian covenants shall apply to the no-build/alteration zone. A notification of the no-build/alteration zone shall be included in the notifications document. (Conditions 1, 2, and 10)*

6. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution.

*To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

7. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is located in medium to heavy infestations on the property. The evaluation form has been approved by the Weed Board and Section 3-4-5(b)(vi) requires that a plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.

*To mitigate impacts on agriculture, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

8. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (application).

**Conclusion of Law:**

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

**CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

**Findings of Fact:**

In a letter received October 2, 2007 (Exhibit A-1), FWP stated that this property is located within big-game winter range (sitting on the border of the Miller-Eightmile and Eightmile-Ambrose survey units). It is about 2.5 miles west of the forested foothills and although it is in the big-game winter range it is not heavily used by winter elk according to Montana Fish, Wildlife, and Parks.

*To mitigate impacts on wildlife, the following conditions shall be met:*

- *The covenants shall include living with wildlife and riparian area provisions. (Condition 2)*
- *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

According to the Montana Natural Heritage Program the Townsend's Big-Eared Bat was identified as species of concern as it has been known to exist in the same section as the proposal.

The subdivider requested and received a waiver from the requirement to submit a sensitive species report because extensive mitigation was provided.

The applicant has proposed to include language in the covenants that would restrict the removal of mature trees on the property unless necessary because of damage by natural causes, provide copies of "Living with Bats" as published by Montana Fish, Wildlife, and Parks, and encourage that each lot owner provide bat houses.

The covenants filed with the final plat application shall include a covenant regarding the Townsend's Big-eared Bat as provided in the preliminary protective covenants submitted with the preliminary subdivision application. (*Application, Condition 2*)

**Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

**CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

**Findings of Fact:**

1. Access is proposed off Eight Mile Creek Road to Jenne Lane.

To mitigate impacts on traffic safety, the following conditions and requirements shall be met:

- *Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision to meet County standards prior to final plat approval.*
  - *Section 5-4-5(e) requires that the portion of Jenne Lane leading to the subdivision be improved to meet County standards prior to final plat approval. A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ (if required), final road plans and grading and storm water drainage plans, a road certification, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*
  - *Section 3-4-4(a)(xix) requires that a Road Maintenance Agreement is in place so the future owners of Elk Run contribute to the maintenance of Jenne Lane.*
  - *A notification of the road maintenance agreement for Jenne Lane shall be included in the notifications document filed with the final plat. (Condition 1)*
  - *Section 3-4-4(a)(xix) requires that a final common access maintenance agreement is submitted with the final plat application.*
  - *A notification of the common access agreement shall be included in the Notifications Document. (Condition 1)*
  - *The subdivider shall pave all common approaches a minimum of 20 feet wide from the surface of Jenne Lane back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Ravalli County Road and Bridge Department, if specified in the approach permit, prior to final plat approval. (Condition 9)*
2. The proposed subdivision will be served by the Florence Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department and/or Missoula Emergency Services. (See *Effects on Local Services*)

*The following conditions will mitigate impacts of the subdivision on the Fire District:*

- *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 2 and 4)*
- *Provide adequate water supply or a \$500 per lot contribution to the Corvallis Rural Fire District, as approved by the Fire District. (Condition 5)*
- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
- *To mitigate impacts on the law enforcement, the subdivider shall submit an (amount)per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 8)*

3. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (*Application*).

*Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.*

4. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (*Condition 2*)
5. According to a document titled *Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water* published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County.

*To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*

6. The preliminary plat and soils map indicate that the subdivision may have soils rated as severe for road and building construction. To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for severe soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as severe for roads and building construction and descriptions of the severe soils in question shall be attached to the notifications document as an exhibit. (*Condition 1*)
7. The preliminary plat shows that all lots have steep slopes (greater than 25%), which are required to be identified as a no build/alteration zone on the final plat. In order to mitigate impacts on Public Health & Safety, notification of the no-build/alteration zone shall be included in the notifications document and the no-build/alteration zone shown on the final plat. (*Condition 1*)

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Rokosch opened public comment.

Jake stated they are in agreement with the staff report with the exception of a few corrections. He stated the real discrepancy is with the ditch. There is no continuous water flow. It is a geological formed ditch not a perennial stream as indicated by the topographic map.

Commissioner Rokosch called for any other public comment, hearing none. He then stated the Board will begin to review the six criteria.

**Criterion 1 Effects on Agriculture:** Commissioner Thompson stated he does not believe there is any effect on agriculture. Commissioner Chilcott noted in the staff report, it indicates Jay Skovlin, a local NRCS soil scientist stated it is the lowest tier of farm soils; therefore it has a low threshold and is not the most productive soils in the Valley. Commissioner Rokosch stated the agricultural lands here are not substantial. **The Commissioners voted unanimously that criterion number one has been sufficiently mitigated.**

**Criterion 2 Effects on Agricultural Water User Facilities:** Commissioner Rokosch discussed the determination of water rights. Tristan replied there are no water rights associated with this property. **The Commissioners voted unanimously that criterion number two has been sufficiently mitigated.**

**Criterion 3 Effects on Local Services:** Commissioner Rokosch questioned the Florence Rural Fire District Fire Protection Standards stating they must have a minimum unobstructed travel surface width of 22 feet. Jake replied it includes roadside ditches. Commissioner Rokosch requested clarification of the road maintenance agreement. Jake replied they are being incorporated into the Gunshy Ridge I road maintenance agreement. Commissioner Grandstaff stated under local services, the whole area is slated for development and being piecemealed. Gerald replied he received a call yesterday regarding chip sealing Upper Woodchuck Road, but that that was the first he had heard of any overall development plan. Commissioner Grandstaff stated there are multiple subdivisions proposed in the area and the road supervisor has requested meeting with all the developers so he may plan ahead for road maintenance. Gerald asked if this is covered by pro-rata shares. Further discussion followed regarding road maintenance. Commissioner Chilcott stated the area needs to be zoned; then it would address the issues. Commissioner Rokosch agreed.

Commissioner Thompson stated Eight Mile Creek Road has a tremendous amount of development potential. There is a connection road from North Hidden Valley Road to Jenne Lane by other subdivisions.

Commissioner Rokosch called for any other considerations, hearing none. Commissioner Rokosch requested clarification for the Fire District, noting there is a \$500 per lot contribution condition to the Florence Fire District. Jake requested the contribution be given upon first conveyance. Commissioner Rokosch replied the normal time payment is made is upon final plat approval. Jake replied the impacts don't occur until the property is conveyed. If it is a venture that doesn't pan out, the fire department is not going to respond to a house fire for a house that doesn't exist. Commissioner Chilcott suggested preparing a CPI (Consumer Price Index). Jake replied they are willing to add the interest incurred as a result of the CPI if the money can be collected upon first conveyance. Commissioner Rokosch stated the construction effects occur with the increased traffic and activity as home construction begins. Board discussion followed.



Civil Counsel Alex Beal read 76-3-608 MCA stating that a subdivision is party to the regulations in place at time of receiving a determination of sufficiency. Commissioner Rokosch requested the applicants consider making a contribution for the community. Jake replied they were deemed sufficient prior to the park land dedication requirement, therefore declined to make a contribution.

Commissioner Rokosch stated he would like to address the school district impacts. He read the Florence-Carlton School District comment letter, stating the dollar amount is based on an Impact Fee study and can't be used to determine voluntary contributions per MCA 76-3-510. Commissioner Rokosch presented the applicants with a letter from Superintendent Ernie Jean which outlines the dollar amount of the cost to educate a student. He discussed the census and the range of students. There is an offer of \$250 per lot for impact to the school district. Commissioner Chilcott stated with effects on education, he requests the county address impact fees in the Florence-Carlton area.

Commissioner Rokosch replied local taxpayers are paying both costs up front. Jake stated they are willing to increase the contribution to \$500 per lot upon first conveyance to include an increase based on the CPI. Commissioner Chilcott stated the offer is well below what current taxpayers are paying. Jake requested perhaps leaving this criterion until the last for further discussion. Jake stated this is a voluntary contribution. The developer increased the contribution to \$850 per lot and first conveyance. Jake stated it does not take into consideration home-schooled students or private school students. There is no developer that knows the cost prior to walking into a meeting with the Commissioners. Board discussion followed regarding real numbers and data gathering. Gerald stated what is proposed here are vacant lots that are going to be sold. What is proposed here is the contribution payable upon first conveyance. People buy the lots, then build, which take time.

Commissioner Rokosch stated he did not see anything providing for school bus turn outs and shelters. He stated there is also the Sheriff's Office to address. Commissioner Rokosch stated there is an offer of \$500 per lot to mitigate the impacts on the Sheriff's Office. Gerald stated they agree with the \$500 per lot and request it be payable upon first conveyance to include an increase based on the CPI.

Commissioner Rokosch requested any other considerations, hearing none. Commissioner Rokosch asked Civil Counsel about the contributions being payable upon first conveyance rather than final plat. Alex replied the first answer is yes; the Commissioners can look at the offer of mitigation. The second answer is that upon first conveyance it is easier to support legally. Commissioner Rokosch stated the effect on the school districts happen when the students walk through the door. When the students come in, it is too late to address the impact. They need books and possibly a new teacher. Commissioner Rokosch then discussed the impacts of the Fire District and Sheriff's Office. Alex replied you can view each one of these public service impacts differently. You can look for another solution. Further discussion followed regarding payment options. Gerald requested the interest based on the CPI be assessed cumulatively for the voluntary

contributions. Commissioner Rokosch stated the issue is to declare the proposed contributions be payable at first conveyance and to be increased by the CPI cumulatively.

**Commissioner Chilcott, Commissioner Thompson and Commissioner Driscoll voted that criterion number three has been significantly mitigated.**

**Commissioner Grandstaff and Commissioner Rokosch voted that criterion number three has not been sufficiently mitigated.**

**Criterion 4 Effects on the Natural Environment:** Commissioner Rokosch stated there is a suggestion for the use of EPA certified wood stoves. Commissioner Grandstaff asked if there is a possibility to consider not allowing wood stoves. Board discussion followed regarding wood stoves. Jake stated they will put in the covenants that wood stoves cannot be used as a primary heat source.

Commissioner Rokosch asked if there were any questions regarding the wells or septic systems, hearing none.

**The Commissioners voted unanimously that criterion number four has been sufficiently mitigated.**

**Criterion 5 Effects on Wildlife and Wildlife Habitat:** Commissioner Rokosch discussed the subdivision being within big game winter range. He stated that since Montana Fish Wildlife and Parks are the experts and they felt that the subdivision was located on the fringes of the big game winter range, any effects would be minimal.

**The Commissioners voted unanimously that criterion number five has been sufficiently mitigated.**

**Criterion 6 Effects on Public Health and Safety:** Commissioner Chilcott suggested adopting the Planning Staff's conclusion of law. The Board discussed the conclusion of law.

Commissioner Grandstaff requested a motion.

**Commissioner Grandstaff, Commissioner Chilcott, Commissioner Thompson and Commissioner Driscoll voted that criterion number six has been sufficiently mitigated.**

**Commissioner Rokosch voted that criterion number six has not been sufficiently mitigated.**

Commissioner Rokosch requested a motion.

**Commissioner Chilcott made a motion to approve the Elk Run Minor Subdivision based on the findings of fact and conclusions of law in the Planning Staff Report amending Condition 2 to state that wood burning stoves will not be the primary heat source, Condition 5 to state that a \$500 per-lot contribution be provided to the Florence Rural Fire District upon first conveyance of each lot with the amount to be**

increased based on a cumulative increase of the Consumer Price Index, amending Condition 7 to state that a \$850 per-lot contribution be provided to the Florence-Carlton School District upon first conveyance of each lot with the amount to be increased based on a cumulative increase of the Consumer Price Index, and amending Condition 8 to state that a \$500 per-lot contribution be provided to the Ravalli County Treasurer on behalf of the Ravalli County Sheriff's Office upon first conveyance of each lot with the amount to be increased based on a cumulative increase of the Consumer Price Index. Commissioner Grandstaff seconded the motion, all voted 'aye'.